

AMENDED IN SENATE AUGUST 5, 2002
AMENDED IN ASSEMBLY APRIL 30, 2002
AMENDED IN ASSEMBLY APRIL 15, 2002
AMENDED IN ASSEMBLY MARCH 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1926

Introduced by Assembly Member Horton
(Principal coauthor: Assembly Member Robert Pacheco)

(Principal coauthor: Senator Polanco)

(Coauthors: Assembly Members Aroner, Bill Campbell, Cedillo, Chavez, Chu, Cohn, Correa, Cox, Diaz, Dutra, Kehoe, Koretz, Liu, Longville, Lowenthal, Nakano, Oropeza, Runner, Salinas, Steinberg, Washington, and Wright)

(Coauthors: Senators Knight, Kuehl, Murray, Ortiz, Romero, Scott, and Speier)

February 12, 2002

An act to amend Section 12956.1 of the Government Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 1926, as amended, Horton. Discrimination: housing.

(1) Existing law authorizes any person holding an ownership interest of record in property containing a restrictive covenant determined by the Department of Fair Employment and Housing to violate the fair housing laws to cause the recording of a modified document with the covenant stricken, as prescribed.

This bill would, under specified circumstances, authorize any person holding an ownership interest of record in property ~~containing that he or she believes is subject to an unlawfully restrictive covenant to cause the recording of~~ submit for recordation a modified document with the covenant stricken ~~without approval from the department~~. The bill would *authorize the county recorder to record the document and, if recorded, would* require the recorder to provide a specified form for attachment to the front of the document. The bill would create a state-mandated local program by imposing new duties on the county recorder.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12956.1 of the Government Code is
- 2 amended to read:
- 3 12956.1. (a) As used in this section, “association,”
- 4 “governing documents,” and “declaration” have the same
- 5 meanings as set forth in Section 1351 of the Civil Code.
- 6 (b) (1) A county recorder, title insurance company, escrow
- 7 company, real estate broker, real estate agent, or association that
- 8 provides a copy of a declaration, governing document, or deed to
- 9 any person shall place a cover page or stamp on the first page of
- 10 the previously recorded document or documents stating, in at least
- 11 14-point boldface type, the following:
- 12 “If this document contains any restriction based on race, color,
- 13 religion, sex, familial status, marital status, disability, national
- 14 origin, or ancestry, that restriction violates state and federal fair
- 15 housing laws and is void, and may be removed pursuant to Section
- 16 12956.1 of the Government Code. Lawful restrictions under state
- 17 and federal law on the age of occupants in senior housing or
- 18 housing for older persons shall not be construed as restrictions
- 19 based on familial status.”

(2) The requirements set forth in paragraph (1) shall not apply to documents being submitted for recordation to a county recorder.

(c) (1) Any person who holds an ownership interest of record in property that he or she believes is the subject of a restrictive covenant referred to in subdivision (b), may file an application with the Department of Fair Employment and Housing requesting a determination of whether the restrictive covenant violates the fair housing laws and is void. Any application pursuant to this subdivision shall be in writing, contain a copy of the document, and identify the location within the document where the restrictive covenant is located.

(2) If the department determines that the document contains a restrictive covenant that violates the law, it shall provide the applicant with a written statement entitled “RACIALLY OR OTHERWISE UNLAWFULLY RESTRICTIVE COVENANT MODIFICATION” that sets forth this determination, including the page and line numbers of any void restrictive covenant, which statement may be recorded with the document pursuant to paragraph (3). The department shall process all applications within 90 days. The department shall include the following language at the end of the written statement which the applicant may complete and sign for purposes of recording pursuant to paragraph (3):

I (We) _____ have an ownership interest of record in the property located at _____ (Address) that is the subject of this document. The Department of Fair Employment and Housing has determined that this document contains a restrictive covenant that violates the law and is void. Pursuant to Section 12956.1 of the Government Code, this document is being recorded solely for the purpose of eliminating that restrictive covenant as shown on page(s) _____ of the document recorded on _____ (Date) in book _____ and page _____, or instrument number _____ of the official records of the County of _____. No other changes have been made.

If executed at any place, within or without this state:

1 I certify (or declare) under penalty of perjury under the laws
2 of the State of California that the foregoing is true and correct.

3
4
5
6 _____
7 (Date and Place)

_____ (Owner(s) Signature(s))
8

9 (3) The applicant may strike out a void restrictive covenant
10 identified by the department, complete and attach a copy of the
11 written statement from the department to the front of the
12 document, and cause the modified document to be recorded, if
13 provided that all other requirements of recordation are met,
14 including the payment of any recordation fee.

15 (d) Subdivision (c) of this section shall not apply to persons
16 holding an ownership interest in property that is part of a common
17 interest development as defined in subdivision (c) of Section 1351
18 of the Civil Code, and where the board of directors of that common
19 interest development is subject to the requirements of subdivision
20 (b) of Section 1352.5 of the Civil Code.

21 (e) The provisions of this section shall have no bearing or effect
22 upon Section 12955.9.

23 (f) Any person who records a document for the express purpose
24 of adding a racially restrictive covenant is guilty of a
25 misdemeanor. The county recorder shall not incur any liability for
26 recording the document. Notwithstanding any other provision of
27 law, a prosecution for a violation of this subdivision shall
28 commence within three years after the discovery of the recording
29 of the document.

30 ~~(g) Notwithstanding any other provision of this section except~~
31 ~~subdivision (d), any person who holds an ownership interest of~~
32 ~~record in property containing an unlawfully restrictive covenant,~~
33 ~~including, but not limited to, racially restrictive covenants, may~~
34 ~~strike out that unlawfully restrictive covenant and cause the~~
35 ~~modified document to be recorded without approval from the~~
36 ~~department, if the covenant is identified pursuant to subdivision (l)~~
37 ~~of Section 12955 and all other requirements of recordation are met,~~
38 ~~including the payment of any recordation fee. The county recorder~~
39 ~~shall provide a form entitled "RACIAL OR OTHERWISE~~
40 ~~UNLAWFULLY RESTRICTIVE COVENANT MODIFICATION"~~

~~to be attached to the front of the document by the person recording the modification setting forth the page and line numbers of the restrictive covenant that is stricken. If the county recorder is uncertain that a covenant is racially or otherwise unlawfully restrictive, the county recorder may direct the person seeking to strike out a covenant to request a determination pursuant to subdivision (c).~~

(g) (1) Any person who holds an ownership interest of record in property that he or she believes is the subject of an unlawfully restrictive covenant in violation of subdivision (l) of Section 12955 may submit for recordation to the county recorder of the county in which the property is located a modified document striking out the unlawfully restrictive covenant.

(2) The county recorder may record the document, if all other requirements of recordation are met, including the payment of any recording fee, or may direct the person to obtain a determination, pursuant to subdivision (c), that the covenant is unlawful. If the recorder records the document, the recorder shall provide a form entitled “RACIAL OR OTHERWISE UNLAWFULLY RESTRICTIVE COVENANT MODIFICATION,” which shall be recorded attached to the front of the document that strikes the unlawfully restrictive covenant.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.